



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/533,672

07/17/2006

Richard W. McCoy

18801-540

9573

7590  
McDonald Hopkins Co  
600 Superior Avenue East  
Suite 2100  
Cleveland, OH 44114

08/09/2007

EXAMINER

OLSON, MARGARET LINNEA

ART UNIT

PAPER NUMBER

3782

MAIL DATE

DELIVERY MODE

08/09/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/533,672

Applicant(s)

MCCOY ET AL.

Examiner

Margaret L. Olson

Art Unit

3782

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2005.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-6,8,9,12-14,16,19,21,22 and 26-31 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☒ Claim(s) 28-30 is/are allowed.  
6) ☒ Claim(s) 1,2,4,5,9,12,14,16,21 and 31 is/are rejected.  
7) ☒ Claim(s) 6,8,13,19,22,26,27 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 7/17/06.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 4 is objected to because of the following informalities: in line 1, "claim1" should be "claim 1". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claim 21 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 21 recites the limitation "said platform mounting apertures" in line 3. There is insufficient antecedent basis for this limitation in the claim. No platform mounting apertures are mentioned prior in the claims.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 3782

5. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Werner (US 2.953.287). Werner discloses a modular cargo carrier assembly with a cargo container 50 connectable to a vehicle with a bottom at 51 and a container side wall extending upwardly from the periphery of the bottom at 50 defining an interior compartment (figure 3, figure 6). A platform 40 with a floor upon which the container bottom rests and a platform side wall extending upwardly from the floor at 37 (figure 3A) define a receiver portion adapted to nestingly support the cargo container. A latch 55 attaches to the sidewall of the cargo container to secure it to the platform wall (figure 10).

With respect to claim 2, the cargo container bottom defines an exterior dimension that is less than the exterior dimension of the cargo container sidewall periphery. The container sidewall exterior surface is substantially coplanar with the platform sidewall exterior surface (figure 1).

6. Claims 1, 2, 4, 5, 9, 14, 16, 21, and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Clayton (US 5,439,151). Clayton discloses a modular cargo carrier assembly with a cargo container 16 having a bottom at 58 and a container side wall extending upward at 60/68/70 from a periphery of the bottom that together define an interior compartment (figure 7). A platform with a floor at 28 and a sidewall extending upwardly from the periphery of the floor define a receiver portion adapted to nestingly support the cargo container. A latch 56 is attached to the sidewall of the container to secure the container to the platform sidewall (figure 6, figure 7).

With respect to claim 2, the cargo container bottom periphery at 58 defines an exterior dimension less than the dimension of the cargo container sidewall periphery at 60/68/70. The container wall exterior surface and the platform sidewall exterior are substantially coplanar when the platform nestingly supports the container.

With respect to claim 4, the cargo container has at least one projection extending outwardly from the container bottom periphery underneath latches 56 (figure 7).

With respect to claim 5, the platform has a slot under latch 56 aligned with the cargo container projection matingly engaging with the projection when the platform nestingly supports the cargo container.

With respect to claim 9, the cargo container includes a cover 90 attached to an upper end of the container sidewall (figure 1).

With respect to claim 14, Clayton discloses a modular cargo carrier assembly with a cargo container 16 having a bottom at 58 and a container side wall extending upward at 60/68/70 from a periphery of the bottom that together define an interior compartment (figure 7). A platform with a floor at 28 and a sidewall extending upwardly from the periphery of the floor define a receiver portion adapted to nestingly support the cargo container. The cargo container has at least one projection extending outwardly from the container bottom periphery underneath latches 56 (figure 7). The platform has a slot under latch 56 aligned with the cargo container projection matingly engaging with the projection when the platform nestingly supports the cargo container.

With respect to claim 16, a latch 56 is attached to the sidewall of the container to secure the container to the platform sidewall (figure 6, figure 7).

With respect to claim 31, an accessory support assembly 14 carries the cargo carrier assembly and secures the assembly to an accessory receiver assembly secured to a vehicle (figure 10).

With respect to claim 21, the accessory support assembly includes a mounting post 18B and an accessory mounting bracket with mounting apertures near 22 (figure 10).

7. Claims 1, 2, 4, and 12 are rejected under 35 U.S.C. 102(a) as being anticipated by Janek (US 6,471,104). Janek discloses a modular cargo carrier assembly with a cargo container having a bottom and a container sidewall extending upwardly from the periphery of the bottom defining an interior compartment. A platform comprising a floor 32 and a platform side wall 54 extending upwardly from the floor defines a receiver portion to nestingly house the cargo container thereon. A latch 70/71 is attached to the sidewall of the container to secure the container to the platform sidewall (figure 1).

With respect to claim 2, the cargo container bottom periphery defines an exterior dimension less than the dimension of the cargo container sidewall periphery. The container wall exterior surface and the platform sidewall exterior are substantially coplanar when the platform nestingly supports the container (figure 1).

With respect to claim 4, the cargo container has a projection 61 extending outwardly from the container bottom periphery (figure 2).

With respect to claim 12, the cargo container sidewall includes a wheel 44 (figure 1).

Art Unit: 3782

***Allowable Subject Matter***

8. Claims 28-30 are allowed.
9. Claims 6, 8, 13, 19, 22, 26, and 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kincart (US 5,806,736), Tomososki (US 5,038,983), Alderman (US 6,354,476), and Wilkerson (US 3,762,758) all disclose similar inventions.

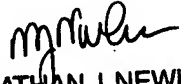
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret L. Olson whose telephone number is (571) 272-9002. The examiner can normally be reached on MTWR, 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3782

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

mlo

  
NATHAN J. NEWHOUSE  
SUPERVISORY PATENT EXAMINER